

Private foundation taxable expenditures; craft competition.

An unconditional and unrestricted grant by a private foundation to the winner of a competition conducted among students attending schools specializing in teaching a special craft is not a taxable expenditure within the meaning of section 4945(d) of the Code; Rev. Rul. 75-393 modified.

Advice has been requested whether, under the circumstances described below, grants awarded by a private foundation to individuals are taxable expenditures within the meaning of section 4945(d)(3) or 4945(d)(5) of the Internal Revenue Code of 1954.

The foundation is a trust created for charitable and educational purposes. As part of its educational program, it sponsors an annual competition among students attending schools specializing in teaching a particular craft. The purpose of this competition is to raise the quality standards in the craft courses of the schools by giving students a professional framework in which to create new products, which will be evaluated by top professionals in the field.

Each school that signifies an intent to enter students in the competition designates a member of its faculty as the official representative of the school. Those students desiring to compete are required to notify the designated faculty representative who then prepares and submits the necessary entry forms.

The faculty representative, together with a committee made up of other members of the faculty, selects the best entries from that particular school. These entries are forwarded to the Competition Committee of the foundation. The entries from all participating schools are then forwarded to a panel of professional people who are independent of the foundation. This panel evaluates the entries. Pursuant to this evaluation, the foundation awards grants to the students whose products the Competition Committee judges to be the best. The students retain the products submitted and the foundation exercises no rights over the products. There is no requirement that the selected individuals perform any further activity, such as prepare a special report, attend school, etc. There is also no restriction as to the use to which the individuals may put the grants.

Section 4945 of the Code imposes a tax on each taxable expenditure made by a private foundation.

Section 4945(d)(3) of the Code provides that the term 'taxable expenditure' includes any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of section 4945(g).

Section 53.4945-4(a)(3)(i) of the Foundation Excise Tax Regulations provides that a grant to an individual for purposes other than those described in section 4945(d)(3) of the Code is not a taxable expenditure within the meaning of that section even if the requirements of section 4945(g) are not met.

The grants made to the individuals under the program described above are granted in recognition of past achievements in the craft course. They are not intended to finance any future activities of an individual grantee. No conditions are imposed on the manner in which the awards may be expended by the recipients.

Accordingly, the grants in question are made for purposes other than those stated in section 4945(d)(3) of the Code and are not taxable expenditures within the meaning of that section.

However, even if a grant to an individual is for a purpose not described in section 4945(d)(3) of the Code, it may still be a 'taxable expenditure' if it does not meet the requirements of section 4945(d)(5).

Section 4945(d)(5) of the Code treats an expenditure for 'any purpose other than one specified in section 170(c)(2)(B)' as a taxable expenditure. Section 170(c)(2)(B) refers to 'religious, charitable, scientific, literary, or educational purposes or . . . prevention of cruelty to children or animals.'

The grants in question are made for educational purposes within the meaning of section 170(c)(2)(B) of the Code and, thus, are not taxable expenditures within the meaning of section 4945(d)(5).

See also Rev. Rul. 75-393, 1975-2 C.B. 451, which holds that an award by a private foundation to a person who has written the best work of literary criticism during the preceding year is not a taxable expenditure within the meaning of section 4945(d)(3) of the Code. However, to the extent Rev. Rul. 75-393 can be read to imply that a grant falling outside the scope of section 4945(d)(3) need not comply with the requirements of section 4945(d)(5), it is modified.